

RULE 12

DISCIPLINARY ACTION

SECTION 1: DISCIPLINARY ACTION

The City Manager has authority to take disciplinary action against any classified employee. The City Manager may delegate this authority to any management employee for subordinate employees.

A process of progressive discipline is followed to ensure that classified employees are afforded adequate opportunity to correct unacceptable behavior. However, the seriousness of the offense may dictate overriding progressive discipline, and serious offenses may lead to immediate dismissal. A combination of disciplinary actions may be used.

Probationary employees are considered at-will employees. The City of Sierra Vista has not, expressly or implied, granted for cause rights. Probationary employees hold their job at the will and pleasure of the employer; they may be dismissed for any lawful cause or no cause. The at-will employee has no rights to an administrative hearing or appeal to the Hearing Officer. No staff member of the City of Sierra Vista can change the status of any employee without written approval of the City Manager.

SECTION 2: REASONS FOR DISCIPLINARY ACTION

The tenure of every employee in the City service shall be contingent upon acceptable conduct and satisfactory performance of duties. The following reasons constitute grounds for disciplinary action, up to and including dismissal.

- A. Secured employment with the City through misrepresentation or fraud.
- B. Intentionally falsified any document, report or statement relating to their employment with the City.
- C. Lacks sufficient competency or efficiency to perform assigned duties and responsibilities.
- D. Failed to obtain or maintain a current license or certificate as a condition of employment, or if required by law or City policy.
- E. Failed to submit to a required physical or psychological examination or to participate in appropriate counseling, testing, or rehabilitative treatment as may be required by the City.
- F. Insubordinate, willfully disobedient, or failed to follow reasonable direction from a supervisor.
- G. Willful release of confidential information.
- H. Display of dishonest behavior involving City employment.

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- I. Abusive in attitude, language, behavior, or conduct toward a fellow employee, a supervisor, or the public; or their action has resulted in physical harm, injury, or fear of harm to such persons.
- J. Engaged in conduct, on or off duty, that is of such nature that it causes discredit to the City.
- K. Committed an act of discrimination or harassment because of race, color, religion, sex (to include lesbian, gay, bi-sexual, or transgendered (LGBT)), national origin, age, or disability.
- L. Unlawfully retaliated against another employee.
- M. Recorded others in the workplace without their knowledge (sworn police officers exempt during a work related investigation).
- N. Refused to subscribe to any oath or affirmation required in connection with City employment.
- O. Purchased, possessed, used, manufactured, distributed, dispensed or sold alcoholic beverages, unauthorized drugs or controlled substances, or any other intoxicants on City property, while operating City equipment, or while in the performance of City duties unless authorized to do so; or

Reported to work under the influence of alcohol or drugs as defined in the City's Substance Abuse Policy (Rule 2, Section 3); or the employee's off-duty use, possession, or sale of drugs or alcohol adversely affects work performance, safety, or the City's reputation.

Any employee found in violation of this rule will be subject to immediate dismissal with no rights to an administrative hearing or appeal to the Hearing Officer.

- P. Failed to notify his/her Department Director or Human Resources Manager within five (5) days of a conviction under any Federal or State statute affecting the employee's ability to perform his/her job and/or occurs while on the job.
- Q. Convicted of a criminal offense while employed by the City affecting the employee's ability to perform his/her job and/or occurs while on the job.
- R. Made a false statement, written or oral, attempting to conceal any past or present criminal activity.
- S. Failed to participate, aid, or submit to a polygraph examination as part of an internal administrative investigation.
- T. Possessed during scheduled work hours (on person or in a personal vehicle which is being used for city business) a deadly weapon, either concealed or unconcealed, while on city property or in a city vehicle at any time. Deadly weapons include, but are not limited to, explosives, firearms, and prohibited weapons as those terms are defined by

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Arizona Revised Statutes §§ 13-3101A. (1), (3), (4), and (7), but do not include mace and pepper spray. This prohibition applies to all city employees, excluding employees engaged in law enforcement activities.

- U. Acceptance of any remuneration, other than regular City compensation, whether in the form of a gift, loan, service, or other valuable item, from any person reasonably known to the employee to be interested in any manner, directly or indirectly, in any decision or act of the City.
- V. Solicited any member of the public for money, goods, or services for personal gain while acting in an official capacity of the City in violation of the Code of Ethics.
- W. Used, or attempted to use political influence for himself or any other person in securing employment benefits or advantages.
- X. Unauthorized use and/or removal of City property.
- Y. Through negligence or willful misconduct, caused damage to public property or waste of public supplies.
- Z. Stole public or private property, misappropriated City funds, or has been an accomplice in any of these practices while employed by the City.
- AA. Engaged in outside business activities on City time.
- BB. Absent without an acceptable excuse to the City, has had excessive absenteeism or tardiness, has failed to receive prior approval for any paid or unpaid absence, has abandoned their position, feigns sickness or injury, or otherwise deceives a supervisor as to their condition or ability to perform the duties of the position, or the employee has falsified a certificate justifying medical leave.
- CC. Refused to perform reasonable light duty that is assigned because of an illness, injury, or disability without a physician's statement.
- DD. Worked at outside employment while on medical leave, industrial accident leave, or Family and Medical Leave except as otherwise authorized by law.
- EE. Unsafe to himself/herself, other employees, the public, or City property in the performance of duties and responsibilities; or the employee has frequently violated safety rules or practices.
- FF. Concealed information or failed to properly report an accident, injury, or incident under the purview of any state statute or City resolution or regulation.
- GG. Holds a City of Sierra Vista elected office prior to resigning from a City position or holds any other office incompatible with City employment unless approved by the City Manager or his designee.
- HH. Directly or indirectly received or paid an assessment, subscription, or contribution for the purpose of electing any candidate to the City of Sierra Vista public office.

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- II. Engaged in improper political activities as prohibited by Rule 2, Section 4 of this Ordinance.
- JJ. Engaged in any other conduct as determined by the City to be in violation of any written City policy or rule.

SECTION 3: TYPES OF DISCIPLINARY ACTIONS

A. Verbal Reprimand

A verbal reprimand is the non-written notification to an employee of job performance deficiency or misconduct and notification of the City's level of expectations. The supervisor documents the date and nature of the reprimand.

B. Written Reprimand

A written reprimand is an official notification to an employee that there is cause for dissatisfaction with the employee's job performance or that there is misconduct. The written reprimand is documented and placed in the employee's personnel file maintained in the Human Resources Division.

C. Administrative Leave

Administrative leave is the non-disciplinary suspension of an employee with pay to permit an investigation into matters concerning a possible disciplinary action. During this period, the employee is considered to be on full duty and available to participate and aid in the investigation. In making the determination to suspend an employee with pay, the following factors are considered:

1. Whether or not the employee's presence on the job or at the work site would hinder the investigation, or
2. If the employee's presence would be detrimental to the public interest or the continued efficient operation of the City.

D. Disciplinary Suspension

Disciplinary suspension is the temporary separation of an employee from City service without compensation. A suspended employee receives written notification listing the specific charge(s), period of suspension, and appeal rights, if any.

Before a suspension of more than two days is rendered, the City Manager, or his designee, will schedule an internal administrative hearing with the affected employee to hear his views on the charges.

Suspensions of two (2) days or less are not entitled to an internal administrative hearing or appeal to the Hearing Officer.

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E. Involuntary Demotion

Involuntary demotion is the movement of an employee from one classification to another classification with a lower maximum rate of pay. The employee receives written notice listing specific charge(s), effective date, and appeal rights, if any. No employee shall be demoted to a position for which he does not possess the minimum qualifications.

An employee who is demoted to a lower class for which the maximum rate of pay is less than his current rate of pay shall be paid at a rate fixed by the City Manager, not to exceed the maximum rate of the lower class or his current rate of pay. A promoted employee who fails to perform minimum job requirements shall be demoted to that rate of pay held at the time of the promotion.

A promoted employee, who has completed the initial twelve (12) month probation period in a former position and classification has the right to an administrative hearing with the City Manager before an involuntary demotion is rendered, and the right to appeal to the Hearing Officer under the provisions of Rule 14. An employee serving the initial twelve (12) month probation period has no right to an administrative hearing or appeal to the Hearing Officer.

F. Dismissal

Dismissal is the discharge for cause of an employee from City service. The employee receives written notice listing the specific charge(s), effective date, and appeal rights, if any.

Before a final decision of dismissal is rendered, the City Manager, or his designee, will schedule an internal administrative hearing with the affected employee to hear his views on the charges. Exceptions: Probationary employees, and employees in violation of Rule 12, Section 2(O), are not entitled to an internal administrative hearing or appeal to the Hearing Officer.

SECTION 4: APPEAL PROCEDURE

Classified employees may appeal any dismissal, demotion, or suspension to the Hearing Officer. See Rule 14, "Appeal to Hearing Officer." Exception: Probationary, at-will employees, employees suspended for two days or less, and employees in violation of Rule 12, Section 2(O), are not entitled to the provisions of Rule 14, "Appeal to Hearing Officer."